



General Assembly

Substitute Bill No. 5778

February Session, 2006

* HB05778FIN 032806 *

**AN ACT CONCERNING VARIOUS TAXES ADMINISTERED BY THE
DEPARTMENT OF REVENUE SERVICES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-35b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of sections 12-204, 12-212, 12-235, [12-263b, 12-
4 263m,] 12-268h, 12-309, 12-330i, 12-366, as amended, 12-398, [12-405d,]
5 12-420, 12-441, 12-475, 12-488, [12-512,] 12-555a, 12-594, 12-638j, 12-655
6 and 12-734; [22a-256j and 51-81b:]

7 [(a)] (1) "Bona fide purchaser" means a person who takes a
8 conveyance of real estate in good faith from the holder of legal title,
9 and pays valuable consideration, without actual, implied, or
10 constructive notice of any tax delinquency.

11 [(b)] (2) "Qualified encumbrancer" means a person who places a
12 burden, charge or lien on real estate, in good faith, without actual,
13 implied, or constructive notice of any tax delinquency.

14 [(c)] (3) "Commissioner" means the Commissioner of Revenue
15 Services or his or her authorized agent.

16 (b) For purposes of the sections enumerated in subsection (a) of this
17 section, the commissioner may use an electronic signature, as defined

18 in section 1-267, on any certificate of lien or certificate discharging such
19 lien. No town clerk shall refuse to record any such certificate because
20 the commissioner has used an electronic signature thereon.

21 (c) All certificates of lien or certificates discharging a lien using an
22 electronic signature of the commissioner and filed with a town clerk by
23 the commissioner before the effective date of this section, when
24 otherwise valid, are validated and effective as of the date originally
25 filed with such town clerk.

26 Sec. 2. Subdivision (5) of subsection (a) of section 12-285 of the
27 general statutes is repealed and the following is substituted in lieu
28 thereof (*Effective July 1, 2006*):

29 (5) "Dealer" means any person other than a distributor who is
30 engaged in this state in the business of selling cigarettes, including any
31 person operating and servicing fewer than twenty-five cigarette
32 vending machines, and any person who is engaged in the business of
33 selling taxed tobacco products, as defined in section 12-330a, as
34 amended by this act, at retail.

35 Sec. 3. Subsections (d) and (e) of section 12-286 of the 2006
36 supplement to the general statutes are repealed and the following is
37 substituted in lieu thereof (*Effective July 1, 2006*):

38 (d) The commissioner may, in the commissioner's discretion, refuse
39 to issue a license if there is reasonable ground to believe (1) that the
40 applicant has wilfully made any false statement of substance with
41 respect to such application for license, (2) that the applicant has
42 neglected to pay any taxes due to this state, or (3) that the applicant
43 has been convicted of violating any of the cigarette or other tobacco
44 products tax laws of this or any other state or the cigarette tax laws of
45 the United States or has such a criminal record that the commissioner
46 reasonably believes that such applicant is not a suitable person to be
47 issued a license, provided no refusal shall be rendered under this
48 subdivision except in accordance with the provisions of sections 46a-80
49 and 46a-81.

50 (e) (1) Any person who knowingly sells, offers for sale or possesses
51 with intent to sell any cigarettes, without a license as provided in this
52 chapter, shall be fined not more than five hundred dollars or
53 imprisoned for not more than three months, or both, for each offense.
54 Each day of such unauthorized operation may be deemed a separate
55 offense.

56 (2) Any person who knowingly sells at retail, offers for sale at retail
57 or possesses with intent to sell at retail any taxed tobacco products,
58 without a dealer's license as provided in this chapter, shall be fined not
59 more than five hundred dollars or imprisoned for not more than three
60 months, or both, for each offense. Each day of such unauthorized
61 operation may be deemed a separate offense.

62 Sec. 4. Section 12-287 of the general statutes is repealed and the
63 following is substituted in lieu thereof (*Effective July 1, 2006*):

64 Each person engaging in, or intending to engage in, the business of
65 selling cigarettes in this state as a dealer, and each person engaging in
66 or intending to engage in, the business of selling taxed tobacco
67 products at retail, shall secure a dealer's license from the
68 Commissioner of Revenue Services before engaging in such business
69 or continuing to engage therein. Subject to the provisions of section 12-
70 286, as amended by this act, such license shall be renewable annually.
71 The annual fee for a dealer's license shall be twenty-five dollars. Such
72 license shall be valid for a period beginning with the date of license to
73 the thirtieth day of September next succeeding the date of license
74 unless sooner revoked as provided in section 12-295, as amended, or
75 unless the person to whom it was issued discontinues business, in
76 either of which cases the holder of the license shall immediately return
77 it to the commissioner. In the event of mutilation or destruction of such
78 license, a duplicate copy, marked as such, shall be issued by said
79 commissioner upon application accompanied by a fee of five dollars.

80 Sec. 5. Section 12-330a of the general statutes is repealed and the
81 following is substituted in lieu thereof (*Effective July 1, 2006*):

82 As used in this chapter:

83 (1) "Commissioner" means the Commissioner of Revenue Services;

84 (2) ["tobacco products"] "Tobacco products" means cigars, cheroots,
85 stogies, periques, granulated, plug cut, crimp cut, ready rubbed and
86 other smoking tobacco, snuff tobacco products, cavendish, plug and
87 twist tobacco, fine cut and other chewing tobaccos, shorts, refuse
88 scraps, clippings, cuttings and sweepings of tobacco and all other
89 kinds and forms of tobacco, prepared in such manner as to be suitable
90 for chewing or smoking in a pipe or otherwise or for both chewing and
91 smoking, but shall not include any cigarette, as defined in section 12-
92 285, as amended by this act;

93 (3) ["distributor"] "Distributor" means (A) any person in this state
94 engaged in the business of manufacturing tobacco products, (B) any
95 person who purchases untaxed tobacco products at wholesale from
96 manufacturers or other distributors for sale, or (C) any person who
97 imports into this state untaxed tobacco products, at least seventy-five
98 per cent of which are to be sold;

99 (4) ["unclassified importer"] "Unclassified importer" means any
100 person, other than a distributor, who imports, receives or acquires
101 untaxed tobacco products from outside this state for his or her
102 personal use or consumption in this state;

103 (5) ["sale"] "Sale" or "sell" includes or applies to gifts, exchanges and
104 barter;

105 (6) ["wholesale sales price"] "Wholesale sales price" means, in the
106 case of a manufacturer of tobacco products, the price set for such
107 products or, if no price has been set, the wholesale value of such
108 products, and, in the case of a distributor who is not a manufacturer of
109 tobacco products, the price at which the distributor purchased such
110 products, and, in the case of an unclassified importer of tobacco
111 products, the price at which the unclassified importer purchased such
112 products; [and]

113 (7) ["snuff tobacco products"] "Snuff tobacco products" means only
114 those snuff tobacco products that have imprinted on the packages the
115 designation "snuff" or "snuff flour", or the federal tax designation "Tax
116 Class M", or both;

117 (8) "Untaxed tobacco products" means tobacco products upon which
118 no tax has been paid in accordance with the provisions of this chapter;
119 and

120 (9) "Taxed tobacco products" means tobacco products upon which
121 tax has been paid in accordance with the provisions of this chapter.

122 Sec. 6. Section 12-330b of the general statutes is repealed and the
123 following is substituted in lieu thereof (*Effective July 1, 2006*):

124 Each distributor or unclassified importer shall obtain a license
125 issued by the commissioner before manufacturing, purchasing,
126 importing, receiving or acquiring any untaxed tobacco products in this
127 state. The commissioner may, in his or her discretion, refuse to issue a
128 license if [he] such commissioner has reasonable ground to believe (1)
129 that the applicant has wilfully made any false statement of substance
130 with respect to such application for license, (2) that the applicant has
131 neglected to pay any taxes due to this state, or (3) that the applicant
132 has been convicted of violating any of the cigarette or other tobacco
133 product tax laws of this or any other state or the cigarette tax laws of
134 the United States or has such a criminal record that the commissioner
135 reasonably believes that such applicant is not a suitable person to be
136 issued a license, provided no refusal shall be rendered under this
137 subdivision except in accordance with the provisions of sections 46a-80
138 and 46a-81. The fee for a distributor's license shall be one hundred
139 dollars a year. There shall be no fee for an unclassified importer's
140 license. Each distributor's license [so issued] shall be [properly]
141 conspicuously displayed on the premises covered by the license.
142 Notwithstanding the provisions of section 12-15, as amended, the
143 commissioner shall publish on the Internet web site of the Department
144 of Revenue Services a list of every distributor licensed under this

145 chapter. The commissioner shall prescribe the form of application for a
146 distributor's license and for an unclassified importer's license.

147 Sec. 7. Subsection (a) of section 12-330c of the general statutes is
148 repealed and the following is substituted in lieu thereof (*Effective July*
149 *1, 2006*):

150 (a) (1) A tax is imposed on all untaxed tobacco products held in this
151 state by any person. Except as otherwise provided in subdivision (2) of
152 this subsection with respect to the rate of tax on snuff tobacco
153 products, the tax shall be imposed at the rate of twenty per cent of the
154 wholesale sales price of such products.

155 (2) The tax shall be imposed on snuff tobacco products, on the net
156 weight as listed by the manufacturer, as follows: Forty cents per ounce
157 of snuff and a proportionate tax at the like rate on all fractional parts of
158 an ounce of snuff.

159 Sec. 8. Subdivision (1) of subsection (b) of section 12-330d of the
160 2006 supplement to the general statutes is repealed and the following
161 is substituted in lieu thereof (*Effective July 1, 2006*):

162 (b) (1) [Each licensed distributor who does not acquire untaxed
163 tobacco products shall file with the commissioner, on or before the
164 twenty-fifth day of each July, a report for the twelve-month period
165 ending the June thirtieth immediately preceding, in such form and
166 containing such information as the commissioner may prescribe, and
167 bearing notice to the effect that false statements made in such report
168 are punishable. As used in this section, "untaxed tobacco products"
169 means tobacco products other than taxed tobacco products; and "taxed
170 tobacco products" means tobacco products which are acquired from a
171 licensed distributor who does acquire untaxed tobacco products and
172 who is subject to and required to pay the tax imposed under this
173 chapter on such tobacco products. Each distributor required to file an
174 annual report] Any person who does not acquire untaxed tobacco
175 products, but acquires taxed tobacco products for sale at retail shall not
176 be licensed as a distributor under this chapter, and shall be required,

177 during the period that such person is a retailer of taxed tobacco
178 products, to apply for and retain a dealer's license under chapter 214.
179 Each such retailer shall maintain records that detail (A) the persons
180 from whom, the quantities in which and the dates on which tobacco
181 products were acquired by [the distributor; (B) the persons to whom,
182 the quantities in which and the dates on which such tobacco products
183 were sold by the distributor; and (C)] such retailer, and (B) any other
184 information deemed necessary by the commissioner.

185 Sec. 9. Subdivision (1) of subsection (a) of section 12-392 of the 2006
186 supplement to the general statutes is repealed and the following is
187 substituted in lieu thereof (*Effective from passage and applicable to taxes*
188 *payable on or after said date*):

189 (a) (1) The tax imposed by this chapter shall become due at the date
190 of the taxable transfer and shall become payable, and shall be paid,
191 without assessment, notice or demand, to the Commissioner of
192 Revenue Services at the expiration of nine months from the date of
193 death, and executors, administrators, trustees, grantees, donees,
194 beneficiaries and surviving joint owners shall be liable for the tax and
195 for any interest or penalty thereon until it is paid, except that no
196 executor, administrator, trustee, grantee, donee, beneficiary or
197 surviving joint owner shall be liable for a greater sum than the value of
198 the property actually received by him or her. If the amount of tax
199 reported to be due on the return is not paid within such nine months,
200 there shall be imposed a penalty equal to ten per cent of such amount
201 due and unpaid, or fifty dollars, whichever is greater. Such amount
202 shall bear interest at the rate of one per cent per month or fraction
203 thereof, from the due date of such tax until the date of payment.
204 Subject to the provisions of section 12-3a, the commissioner may waive
205 all or part of the penalties provided under this chapter when it is
206 proven to his satisfaction that the failure to pay any tax was due to
207 reasonable cause and was not intentional or due to neglect.

208 Sec. 10. Section 12-395 of the general statutes is repealed and the
209 following is substituted in lieu thereof (*Effective from passage*):

210 (a) (1) The provisions of sections 12-548 and 12-550 to [12-553] 12-
211 554, inclusive, shall apply to the provisions of this chapter in the same
212 manner and with the same force and effect as if the language of said
213 sections 12-548 and 12-550 to [12-553] 12-554, inclusive, had been
214 incorporated in full into this chapter and had expressly referred to the
215 tax imposed under this chapter, except to the extent that any such
216 provision is inconsistent with a provision of this chapter.

217 (2) A finding of domicile by a court of probate in accordance with
218 subsection (b) of section 45a-309 shall not affect the determination, for
219 purposes of this chapter of whether a decedent died a resident of this
220 state, [or of the amount of estate tax due this state,] except in
221 accordance with the provisions of subsection (b) of this section.

222 (b) Any person aggrieved by any [order, decision, determination or
223 disallowance of] determination of domicile by the Commissioner of
224 Revenue Services under the provisions of [this chapter] subdivision (5)
225 of subsection (h) of section 12-391 of the 2006 supplement to the
226 general statutes, may, not later than one month after service upon the
227 person of notice of such [order, decision,] determination, [or
228 disallowance,] make a written application for a hearing to the court of
229 probate for the district within which the decedent resided at the date
230 of his death, or within which the commissioner contends that the
231 decedent resided at the date of his death or, if the decedent died a
232 nonresident of this state, in the court of probate for the district within
233 which real estate or tangible personal property of the decedent is
234 situated, or within which the commissioner contends that real estate or
235 tangible personal property of the decedent is situated. Such application
236 shall set forth in detail the objection to the [order, decision,]
237 determination [or disallowance] of said commissioner and a copy of
238 same shall be mailed to said commissioner at the time of filing. The
239 court of probate shall assign a time and place for a hearing upon such
240 application not less than two nor more than four weeks after receipt
241 thereof and shall cause a copy of the order of hearing to be sent to said
242 commissioner and to the person aggrieved by said [order, decision,]
243 determination [or disallowance] at least ten days before the time of

244 such hearing. The commissioner or any person interested may appear
245 before the court at such hearing and be heard on any matter involved
246 in the determination. [of the tax.] At such hearing, the court shall
247 determine all matters properly before it, [including the amount of such
248 tax] and shall enter upon its records a decree [for such amount] of
249 domicile. A copy of the decree of the court of probate shall be
250 forwarded by the judge or clerk of such court to the commissioner and
251 to the person aggrieved because of such [order, decision,]
252 determination [or disallowance] of the commissioner. The
253 determination [of the tax] by the Commissioner of Revenue Services
254 shall be conclusive upon the state and any person aggrieved by any
255 [order, decision,] determination [or disallowance] of the commissioner
256 unless a hearing is held as provided in this subsection, in which case
257 the decree of the court of probate shall be conclusive upon the state
258 and any person aggrieved by such [order, decision,] determination [or
259 disallowance] of the commissioner unless an appeal is taken as
260 provided for appeals from other decrees and orders of such court.

261 Sec. 11. Section 12-644 of the general statutes is repealed and the
262 following is substituted in lieu thereof (*Effective from passage and*
263 *applicable to gifts made during calendar years commencing on or after*
264 *January 1, 2006*):

265 (a) Any individual, whether resident or nonresident, liable for a
266 return under this chapter, who in the calendar year makes any transfer
267 by gift not excluded in this chapter shall make a return with respect to
268 the gift tax imposed by this chapter.

269 (b) If the donor dies before filing his return, the executor of his will
270 or the administrator of his estate shall file the return. If the donor
271 becomes legally incompetent before filing his return, his guardian or
272 conservator shall file the return.

273 (c) The return shall set forth:

274 (1) Each gift made during the calendar year which is to be included
275 in computing the taxable gifts.

276 (2) The deductions claimed and allowable under section 12-643, as
277 amended.

278 (3) A description of the gift, and the donee's name, address and
279 social security account number.

280 (4) The fair market value of gifts not made in money.

281 (5) Such further information as the Commissioner of Revenue
282 Services may find necessary to administer properly the provisions of
283 this chapter.

284 (d) (1) If any gift which is required to be shown on a return under
285 this chapter is not shown on such return, or if the information set forth
286 in such return fails to meet the requirements of subsection (c) of this
287 section, any tax imposed by this chapter on such undisclosed gift may
288 be assessed at any time with respect to that gift, even if the
289 commissioner has filed a return on behalf of the taxpayer in
290 accordance with section 12-649.

291 (2) In the case of any item adequately disclosed in such return in
292 accordance with subsection (c) of this section, the provisions of
293 subdivision (1) of this subsection shall not apply.

294 Sec. 12. Section 12-645 of the general statutes is repealed and the
295 following is substituted in lieu thereof (*Effective from passage and*
296 *applicable to gifts made during calendar years commencing on or after*
297 *January 1, 2006*):

298 Returns required under this chapter shall be filed on or before the
299 fifteenth day of April following the close of the calendar year except
300 where a gift is made during the calendar year in which the donor dies,
301 the return with respect to such donor shall be filed on or before the last
302 date, including extensions, for filing the [gift] estate tax return [for
303 federal gift tax purposes] under chapter 217 with respect to such
304 donor.

305 Sec. 13. Section 12-647 of the general statutes is repealed and the

306 following is substituted in lieu thereof (*Effective from passage and*
307 *applicable to taxes due for calendar years commencing on or after January 1,*
308 *2005*):

309 (a) The tax imposed under this chapter shall be due and payable by
310 the donor no later than April fifteenth following the close of the
311 calendar year during which the gift was made and shall be payable to
312 the Commissioner of Revenue Services. The return required under
313 section 12-644, as amended by this act, shall accompany such payment.
314 Where a gift is made during the calendar year in which the donor dies,
315 the last date for paying the tax required under this chapter shall be the
316 last date, including extensions, for filing the [gift tax return for federal
317 gift tax purposes] estate tax return under chapter 217 with respect to
318 such donor. If any person fails to pay the amount of tax reported to be
319 due on such return within the time specified under the provisions of
320 this section, there shall be imposed a penalty equal to ten per cent of
321 such amount due and unpaid or fifty dollars, whichever is greater.
322 Such amount shall bear interest at the rate of one per cent per month or
323 fraction thereof, from the due date of such return.

324 (b) The commissioner for good cause may extend the time for
325 making any return and paying any amount required to be paid under
326 this chapter if a written request therefor is filed with the commissioner
327 together with a tentative return which must be accompanied by a
328 payment of the tax, which shall be estimated in such tentative return,
329 on or before the last day for filing the return. Any person to whom an
330 extension is granted shall pay, in addition to the tax, interest at the rate
331 of one per cent per month or fraction thereof from the date on which
332 the tax would have been due without the extension until the date of
333 payment.

334 (c) If the amount of a taxpayer's taxable gifts, for federal gift tax
335 purposes, reported on such taxpayer's federal gift tax return for any
336 calendar year, is changed or corrected by the United States Internal
337 Revenue Service or other competent authority, the taxpayer shall
338 report such change or correction in federal taxable gifts within ninety

339 days after the final determination of such change or correction, and
 340 shall concede the accuracy of such determination or state wherein it is
 341 erroneous. Any taxpayer filing an amended federal gift tax return shall
 342 also file within ninety days thereafter an amended return under this
 343 chapter and shall give such information as the commissioner may
 344 require. The time for filing such report or amended return may be
 345 extended by the commissioner upon due cause shown.
 346 Notwithstanding any limitation of time in this chapter, if, upon
 347 examination, the commissioner finds that such taxpayer is liable for
 348 the payment of an additional tax, he shall, within a reasonable time
 349 from the receipt of such report or amended return, notify such
 350 taxpayer of the amount of such additional tax, together with interest
 351 thereon computed at the rate of one per cent per month or fraction
 352 thereof from the date when the original tax became due and payable.
 353 Within thirty days of the mailing of such notice, the taxpayer shall pay
 354 the commissioner the amount of such additional tax and interest. If,
 355 upon examination of such report or amended return and related
 356 information, the commissioner finds that the taxpayer has overpaid the
 357 tax due the state, the commissioner shall certify the amount of such
 358 overpayment, together with interest as provided in subsection (d) of
 359 this section, to the Comptroller, and such amount shall be paid to the
 360 taxpayer by the State Treasurer upon order of the Comptroller.

361 (d) Whenever there is an overpayment of the tax imposed by this
 362 chapter, the commissioner shall return to the taxpayer the
 363 overpayment, which shall bear interest at the rate of two-thirds of one
 364 per cent per month or fraction thereof, said interest commencing from
 365 the due date of the return required under this chapter, or the date of
 366 payment, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	12-35b
Sec. 2	<i>July 1, 2006</i>	12-285(a)(5)
Sec. 3	<i>July 1, 2006</i>	12-286(d) and (e)

Sec. 4	<i>July 1, 2006</i>	12-287
Sec. 5	<i>July 1, 2006</i>	12-330a
Sec. 6	<i>July 1, 2006</i>	12-330b
Sec. 7	<i>July 1, 2006</i>	12-330c(a)
Sec. 8	<i>July 1, 2006</i>	12-330d(b)(1)
Sec. 9	<i>from passage and applicable to taxes payable on or after said date</i>	12-392(a)(1)
Sec. 10	<i>from passage</i>	12-395
Sec. 11	<i>from passage and applicable to gifts made during calendar years commencing on or after January 1, 2006</i>	12-644
Sec. 12	<i>from passage and applicable to gifts made during calendar years commencing on or after January 1, 2006</i>	12-645
Sec. 13	<i>from passage and applicable to taxes due for calendar years commencing on or after January 1, 2005</i>	12-647

FIN **Joint Favorable Subst.**